7. MUTUAL MISTAKE—*Payment of money—Interest.* Where money has been paid and received under a mutual mistake of fact, and no fraud or misconduct can be imputed to the party from whom the money is sought to be recovered, interest will not be allowed except from the time when the mistake was discovered and demand made.

BRISTOL IRON & STEEL CO. v. THOMAS AND OTHERS.—Decided at Wytheville, July 16, 1896.—*Keith*, P. Absent, *Harrison*, J:

1. CHANCERY PRACTICE—*Bill to wind up insolvent corporation—Parties.* Upon a bill filed by a creditor of an insolvent corporation solely for the purpose of winding up its affairs and of subjecting its property and franchises to the payment of its debts, the shareholders are neither necessary nor proper parties if no relief is sought against them. They are represented by the company.

2. MECHANICS' LIEN—*Assignment of claim before lien perfected—Rights of assignee.* The right to perfect an inchoate mechanics' lien, existing in a contractor under section 2475 of the Code, passes by his general assignment for the benefit of his creditors to his assignee, and the assignee, on completion of the work, may take the necessary steps to perfect the lien, although the statute is silent on the subject.

DONALDSON v. LEVINE AND OTHERS.—Decided at Wytheville, July 30, 1896.—*Cardwell*, J. Absent, *Harrison*, J:

1. CHANCERY JURISDICTION—*Reformation—Mutual mistake—Presumption—Burden of proof.* While courts of equity have jurisdiction to reform written instruments on the ground of mutual mistake, yet the presumption is that the writing speaks the final agreement of the parties, and the burden is on the complainant to overcome this presumption, and to do so the mistake must be plain, and established by the clearest and most satisfactory proof. In the case in judgment this has not been done.

LYLE, TRUSTEE, AND OTHERS v. COMMERCIAL NATIONAL BANK AND OTHERS.—Decided at Wytheville, August 4, 1896.—*Buchanan*, J. Absent, *Harrison*, J:

1. CHANCERY PRACTICE—*Appointment of a receiver.* The appointment of a receiver is always a matter resting in the sound judicial discretion of the court, to be exercised or refused as may be right and proper under all the circumstances of the case. Upon a bill filed to set aside a deed upon the ground that it was made with intent to hinder, delay, and defraud the complainant and other creditors of the grantor, and that a fictitious debt was therein secured, and praying the appointment of a receiver, the action of the trial court in appointing a receiver will not be reversed where it appears that the grantor and trustee had notice of the intended application and did not, by affidavit or otherwise, deny the fraudulent intent of the grantor, or knowledge thereof of the trustee, or the character of the debt charged to be fictitious.

DICKENSON v. BANKERS LOAN & INVESTMENT CO. AND OTHERS.—Decided at Wytheville, August 4, 1896. *Buchanan*, J. Absent, *Harrison*, J:

1. CHANCERY PRACTICE—*Fraud—How charged—Contradictory statements in bill.* Fraud is a conclusion of law, and the facts relied on to constitute it must be stated